REMARKS

This paper is submitted in response to the pending final Office Action mailed on October 28, 2008. Because this Response is submitted with a Petition for a one month Extension of Time, a check for $130.00 set forth under 37 C.F.R. §1.17(a)(1) and a certificate of mailing in compliance with 37 C.F.R. §1.8 on or before the shortened period for reply set to expire on **February 28, 2009**, this Response is timely filed.

I. STATUS OF THE CLAIMS

Prior to this Response, claims 1 to 5, 7 and 21 to 30 were pending and at issue. By this Response, none of the pending claims have been amended or canceled, and no new claims have been added. Thus, claims 1 to 5, 7 and 21 to 30 remain pending and at issue in this application.

While Applicants believe that no additional fees are due in connection with this application, Applicants direct the Office to charge **Deposit Account No. 23-1925 (08285-00664)** for any fees deemed owed during the pendency of this application, excluding the issue fee.

II. CLAIM REJECTIONS

The Office Action rejects: claims 1, 3, 4, 7, 21, 23 and 25 under 35 U.S.C. §103 as obvious over U.S. Patent No. 5,916302 to Dunn et al. ("*Dunn*") in view of U.S. Patent No. 6,212,177 to Greene et al. ("*Greene*"); and claims 2, 5, 22, 26, 27, 29 and 30 under 35 U.S.C. §103 as obvious over *Dunn* in view of *Greene* and further in view of U.S. Patent No. 6,546,005 to Berkley et al. ("*Berkley*").

A. CLAIMS 1, 3, 4, 7, 21, 23 AND 25

Applicant respectfully traverses the rejection of claims 1, 3, 4, 7, 21, 23 and 25 as obvious over the combination of *Dunn* and *Greene*. Independent claim 1 recites, *inter alia*, a method of providing a broadband conferencing service comprising automatically establishing a separate, parallel virtual data channel between a called party and a calling party over a packet data network in response to receiving a telephone call at a telephony network, wherein a voice communication between the called party and the calling party is carried over the voice channel of the

telephony network and a data communication between the called party and the calling party is carried over the separate virtual data channel of the packet data network. In other words, a separate, parallel virtual data channel between the called party and the calling party is automatically established in response to receiving a telephone call at a telephony network.

Dunn, as acknowledged by the pending final Office Action on page 2, lines 22 to 25, does not disclose automatically establishing a separate, parallel virtual data channel between a called party and a calling party over a packet data network in response to receiving a telephone call at a telephony network. *Dunn* simply discloses a conference server system, for internal use within a public switched telephone network (PSTN), that links to public data communication networks (e.g. the Internet) for distributing computer displayable data between participants in voice telephone conferences.

Contrary to the characterization set forth in the final Office Action on page 3, lines 1 to 9, *Greene* does not provide the teaching or disclosure missing from *Dunn*. In fact, the relied upon passage of *Greene* is completely silent regarding how the status line is established. In particular, the relied upon passage simply states that:

> [a] status indication is provided for each voice channel at each station where the line is available to indicate ringing, busy, hold, idle, conference, etc. The status line indications are supplied through a separate data channel for all the lines available at a station. This status information is invaluable to the operator since it provides an overall picture of the trading activity. *See Greene* at col. 1, lines 18 to 24.

Thus, the final Office Action relies upon a passage in *Greene* that is completely silent regarding **how** the connection is established. Much less that the connection is established automatically as recited by the claims at issue. Moreover, further review of the disclosure of *Greene* clearly contradicts the allegations set forth in the final Office Action and indicates that the connection is established manually. In particular, *Greene* states that:

> To set up the system, the remote operator contacts the office web site by giving the necessary passwords and by then identifying the remote site for the Internet connection and the telephone number of the remote location. The office equipment

> supplies a screen display via the Internet giving the status of all the lines accessible to the particular trader. When the remote operator wishes to take an incoming call shown to be ringing on the remote screen, the remote operator uses a mouse to "click" on the ringing screen indication. The office system connects to the calling party and then dials the remote trader via the public telephone system to connect the parties. A similar procedure is used for placing a call from the remote location. The remote operator "clicks" on the display indication for the desired party. The office system calls the remote party on the public telephone system and then connects to the party being called. *See Greene* at col. 1, lines 45 to 60.

Greene further states that:

> [i]n operation the remote trader first contacts the web server via the Internet. **After supplying the correct password, the data channel is established between the office switching network and the personal computer**. Line status information is supplied to the remote computer and a display similar to that in FIG. 2 is created on the screen. The line status is periodically updated. *See Greene* at col. 3, lines 4 to 10, emphasis added.

Thus, *Greene* discloses that a remote operator interacts with a remote screen or web site when connecting incoming calls with a specific trader turret or telephone station. Moreover, *Greene* discloses that the data channel is manually established after a password or other authentication is provided; as opposed to in response to receiving the telephone call at the telephony network as recited by the claims at issue.

Finally, as noted in the previous response, Greene fails to teach or support establishing a virtual data channel between a called party and a calling party. As noted in the highlighted excerpt from Greene above, a channel is opened between a switching network and the called party (trading computer) and not between the calling party (trader) and trading computer. The only "data" that can be said to be passed on the "data channel" is a line-in-use signal. Obviously, the trader would not have any need or desire to pass on a line-in-use signal when the trader is making the call, so there is not even a suggestion of a data channel between the calling and called parties.

Because neither *Dunn* nor *Greene*, alone or in combination, discloses or suggests automatically establishing a separate, parallel virtual data channel between a called party and a calling party over a packet data network in response to receiving

a telephone call at a telephony network, no combination or modification of these references will provide or result in the method of claims 1, 3, 4, 7, 21, 23 and 25. Thus, the combination of *Dunn* and *Greene* is insufficient to establish a *prima facie* case of obviousness.

B. CLAIMS 2, 5, 22, 26, 27, 29 AND 30

Applicant respectfully traverses the rejection of Claims 2, 5, 22, 26, 27, 29 and 30 as obvious over the combination of *Dunn, Greene* and *Berkley*. Independent claim 26 recites, *inter alia*, a method of providing broadband access services allowing a voice and data communication between at least two parties that comprises automatically, in response to receiving a telephone call at a telephony network, establishing a virtual data channel from the calling party to the called party over the data network via the subscriber loop, wherein the voice channel carries voice information and the virtual data channel carries non-voice information concurrently over the subscriber loop.

As discussed above in Section II-A, neither *Dunn* nor *Greene* disclose or even suggest, automatically, in response to receiving a telephone call at a telephony network, establishing a virtual data channel from the calling party to the called party over the data network via the subscriber loop. The addition of *Berkley* does not provide the teaching or disclosure missing from either *Dunn* or *Greene*. *Berkley* simply discloses an active user registry for use in conjunction with a plain old telephone system (POTS). *Berkley* is completely silent regarding automatically, in response to receiving a telephone call at a telephony network, establishing a virtual data channel from the calling party to the called party over the data network via the subscriber loop.

Because *Dunn*, *Greene* and *Berkley*, alone or in combination, fail to disclose or suggest automatically, in response to receiving a telephone call at a telephony network, establishing a virtual data channel from the calling party to the called party over the data network via the subscriber loop, no combination or modification of these references will provide or result in the method of Claims 2, 5, 22, 26, 27, 29 and 30. Thus, the combination of *Dunn*, *Greene* and *Berkley* is insufficient to establish a *prima facie* case of obviousness.

III. CONCLUSION

For at least the foregoing reasons, Applicant respectfully requests withdrawal of the pending rejections and submits that the above-identified patent application is now in condition for allowance and earnestly solicits reconsideration of same. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting prosecution of this application.

Respectfully submitted,
BRINKS HOFER GILSON & LIONE

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